

MEETING:	PLANNING COMMITTEE
DATE:	25 JUNE 2014
TITLE OF REPORT:	P140534/F - PROPOSED DEVELOPMENT OF 12 NOS. DWELLINGS, CONSISTING OF 4 NOS. AFFORDABLE AND 8 NOS. OPEN MARKET. WORKS TO INCLUDE NEW ROAD AND LANDSCAPING AT LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9SP For: Mr & Mrs Glynne Schenke, Harbour House, Kingsland, Leominster, Herefordshire HR6 9SE
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140534

Date Received: 21 February 2014

Ward: Bircher

Grid Ref: 344255,261307

Expiry Date: 23 May 2014

Local Members: Councillor WLS Bowen

1. Site Description and Proposal

- 1.1 The site which covers an area of approx. 0.63 of an hectare, is located outside, but within close proximity to the recognised settlement boundary for Kingsland, a main village in accordance with Policy H4 of the Herefordshire Unitary Development Plan. The site is located within the Kingsland Conservation Area and nearby are listed buildings (Kingsland House and Arbour Farm).
- 1.2 The site is situated alongside, (eastern elevation), an existing housing development known as 'Kingsleane', which is an affordable housing site and it is this housing development that is located alongside but outside the recognised development boundary for Kingsland. The C1036 public highway adjoins the southern side of the site, which is located within easy walking distance of the village's community facilities such as a primary school, village hall, post office/shop, public house, church and recycling centre. The site forms part of a recently cultivated field and is surrounded on its southern and northern boundaries by native hedgerows.
- 1.3 The application proposes the construction of 12 dwellings, and associated access road, which will lead into the site off the existing Kingsleane access road. The breakdown of the dwellings is 4 – four bed units, 4 – three bed units and 4 affordable units, which consist of 2 – two bed units and 2 – three bed units.
- 1.4 The application is made in 'full' and is accompanied by a Planning Statement, which includes sections on the design and access statement, archaeology, drainage, affordable housing, heritage, draft Section 106 agreement and ecological/biodiversity. Also accompanying the application is an ecological report, proposed elevation and floor plans and site layout plan. The Draft Heads of Terms drawn up in accordance with Section 106 of the Town and Country

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

Planning Act 1990 in-line with the Council's Supplementary Planning Document on Planning Obligations, is attached as an appendix to the report. Amended plans indicating minor amendments to the overall scheme, further information to supplement information on drainage issues and comments in response to comments received in relationship to the application, were later received in support of the application from the applicant in order to address concerns raised by objections received.

2. Policies

2.1 National Planning Policy Framework

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment.

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Environment
S10	-	Waste
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development in Conservation Areas.

2.3 Supplementary Planning Guidance

- Kingsland Parish Plan
- Planning Obligations

2.4 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
LD5	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD 3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 Neighbourhood Planning

Kingsland Parish Council has successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will have the responsibility of preparing a Neighbourhood Development Plan for the area. There is no timescale for proposing/agreeing the content of the plan at this early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.

- 2.6 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. **Planning History**

- 3.1 NW09/2679/F – Residential development comprising 10 number affordable houses with car parking, shared access and landscaping. Refused 15 December 2009.

The application was refused for the following reasons:

- The application site is not considered to be adjacent to the settlement boundary of the village of Kingsland. Consequently, the proposal does not comply with policy H10 of the Herefordshire Unitary Development Plan (2007).
- The proposed development fails to preserve or enhance the character and appearance of the conservation area contrary to policy HBA6 of the Herefordshire Unitary Development Plan (2007) and to guidance contained with Planning Policy Guidance 15 - Planning and Historic Environment.
- The proposed development by virtue of its location and prominent position is considered to be harmful to the landscape quality of the area contrary to Policy LA2 of the Herefordshire Unitary Development Plan (2007). The introduction of built form in this location would harm

the setting and approach to the village contrary to policy LA3 of the Herefordshire Unitary Development Plan (2007).

- The application site is designated as a Special Wildlife site and is recognised as unimproved hay meadow. As such the introduction of development would be contrary to the aims of policies NC4 and NC6 of the Herefordshire Unitary Development Plan (2007) and guidance contained within Planning Policy Statement 9 - Biodiversity and Geological Conservation.
- The proposal, when considered in relation to the adjacent affordable housing site known as Kingsleane, would create a development, harmful to the social cohesion of Kingsland by virtue of not being integrated within or with meaningful context to the existing local community, contrary to policies S1 and S3.

3.2 NW08/1915/F - Residential development comprising 10 affordable housing units, car parking and shared access and landscaping. Refused 22nd October 2008.

The application was refused for the following reasons:

- The application site is not considered to be adjacent to the settlement boundary of the village of Kingsland. Consequently, the proposal does not comply with policy H10 of the Herefordshire Unitary Development Plan (2007).
- The proposed development fails to preserve or enhance the character and appearance of the conservation area contrary to policy HBA6 of the Herefordshire Unitary Development Plan (2007) and to guidance contained with PPG15 - Planning and Historic Environment.
- The proposed development by virtue of its location and prominent position is considered to be harmful to the landscape quality of the area contrary to Policy LA2 of the Herefordshire Unitary Development Plan (2007). The introduction of built form in this location would harm the setting and approach to the village contrary to policy LA3 of the Herefordshire Unitary Development Plan (2007).
- The application site is designated as a Special Wildlife site and is recognised as unimproved hay meadow. As such the introduction of development would be contrary to the aims of policies NC4 and NC6 of the Herefordshire Unitary Development Plan (2007) and guidance contained within PPS9 - Biodiversity and Geological Conservation.
- The proposal, when considered in relation to the adjacent affordable housing site known as Kingsleane, would create a development, harmful to the social cohesion of Kingsland by virtue of not being integrated within or with meaningful context to the existing local community, contrary to policies S1 and S3.
- The proposed development fails to make provision for or in lieu of a small children's /infants' play area, properly equipped and fenced and therefore fails to meet the criteria of policy H19 of the Herefordshire Unitary Development Plan (2007).
- The proposal would result in unacceptable over-loading of the waste water treatment works and as such would be detrimental to the local environmental and public health, and therefore contrary to Herefordshire Unitary Development Plan policies DR2 and CF2.

- 3.3 92/418 – (Adjoining the site). Erection of ten dwellings approved 4th February 1993. Forming part of the planning approval was an associated section 39 agreement in accordance with the Wildlife and Countryside Act 1981) to ecologically manage the adjoining land and its botanical interests for a period of 10 years, expiring 3 February 2003.

4. Consultation Summary

Statutory Consultees.

- 4.1 English Heritage raises no objections, indicating the application should be determined in accordance with national and local policy guidance, and on the basis of the Council's Conservation advice.
- 4.2 Welsh Water raises no objections subject to conditions with regards to foul and surface water discharges.

Internal Consultees.

- 4.3 The Parks and Countryside Manager raises no objections.
- 4.4 The Conservation Manager, (Ecology), has responded to the application indicating it is not appropriate for him to comment on the application, as the site has undergone recent drastic changes by means of soil cultivation and that he has no ecological grounds for objecting to the application but neither does he wish to give it support.
- 4.5 The Strategic Housing Manager raises no objections.
- 4.6 The Transportation Manager recommends a condition with regards to access, parking and turning.
- 4.7 The Land Drainage Manager raises no objections subject to provision of detailed surface water management design, infiltration test results, groundwater level data, drainage calculations, demonstration that the soakaways are located more than 5m from building foundations, and consideration of adoption, maintenance and siltation control.
- 4.8 The Conservation Manager, (Landscape), has responded to the application stating:

'The application site is the eastern part of a field which separates the West Town area of Kingsland from Kingsleane. The site falls within the Kingsland conservation area. This area is described as the landscape type 'Principal Settled Farmlands' which is characterised by field boundary hedgerows and mixed farming land use. The field, which is designated as Special Wildlife Site has recently been ploughed and re-seeded. While this operation has eliminated its biodiversity interest, as noted in the consultation response by the Ecological Consultant, in visual terms, the field will retain its pastoral character, albeit of a more uniform appearance. The field has native species hedgerow on its roadside, northern and eastern boundaries and ornamental hedging on its western boundary.

Previous schemes in 2008 and 2009, which were refused, related to smaller developments than is now proposed. The current scheme is for a residential development of 12 units arranged round a cul de sac. In respect of both previous schemes, one of the reasons for refusal was on landscape grounds: it was considered that new housing development on this site would cause harm to the landscape quality of the area and to the setting and approach to the village and as such would be contrary to policies LA2 and LA3.

It is considered that the field continues to contribute to the rural setting of Kingsland together with providing visual separation between the West Town area of the village and Kingsleane.

Given this context, any proposed housing scheme would need to be of a very high quality of design to overcome these fundamental concerns.

While the existing Kingsleane development is a high quality design which responds to the village context, with houses fronting onto a small green, the proposed layout of the new housing development does not respond to the village context; it is a conventional suburban housing estate layout with the layout focussed around the access road. The affordable housing plots look very cramped. The proposal to incorporate native species hedgerow as the boundary treatment will not make up for the spatial deficiencies.

Regrettably it is not considered that the scheme could be supported because it would not contribute positively to the landscape quality of the area nor to the setting and approach to the village and it would detract from rather than enhance the existing Kingsleane development. As such it would be contrary to policies LA2, LA3 and DR1.'

4.9 The Conservation Manager (Built Environment) has responded indicating:

'The application site is the eastern part of a field which separates the West Town area of Kingsland from the residential node of Kingsleane. Previous schemes in 2008 and 2009, which were refused, related to smaller plots than is now proposed. The current scheme is for a residential development of 12 units arranged round a cul de sac.

The site is within the large conservation area of Kingsland which covers the ribbon development of the main village to the north of the site, the small node of Kingsleane and the cluster of dwellings at West Town to the west of the site. In between these elements are agricultural fields which give a distinctly rural character to the area both from within the Conservation Area boundary and when viewed from outside. The pattern of development locally is very clear and the balance between built form and the spaces between is critical to the area's character. The small scale of the local visible built form and its varied character in Kingsleane avoids an impression of ribbon development or indeed suburbanisation.

The previous comments of my former colleagues still apply in relation to the principle of development on the site and also its relationship with the 1992 development to the east. I therefore repeat their comments here:

"The present Kingsleane development is an exception which has expended the capacity of settlement pattern in its vicinity to accept modern housing without harm. It is a rare scheme which adds distinction to its surroundings without hiding behind hedges. That achievement is to do with the careful, formal layout of the scheme, the sensitive detailed design, the scale of the parts, and the skilful concealment of the access and parking arrangements. The existing scheme works as a formal range of estate cottages with their layout and character dictated by a pleasant green square.

The proposed expansion would completely destroy the distinction of the present Kingsleane by extending its built form in an entirely different way with buildings of inferior design in a strikingly different layout, which is dictated and visually dominated by its road layout.

Tacking this scheme on to Kingsleane would spoil its carefully considered form. The proposals would erode the space around Kingsleane, which is a key to its visual quality, and introduce a suburban form of development that would appear incongruous in this rural setting."

The character of this portion of the Kingsland Conservation Area is shaped by the separation distances between the nodes of built form. The current proposal would reduce that separation significantly and in fact more than the previous two refused schemes. This would clearly be contrary to the character of the area and therefore would neither preserve nor enhance the conservation area. This in turn is considered contrary to Policy HBA6.

Any development should not need to rely on hiding behind hedges and fences in order to be considered acceptable, as seems to be suggested in the Planning Statement. Whilst the retention of existing hedges is to be welcomed generally they should not be fundamental to the acceptability or otherwise of design, layout and location of a development. The scheme would be visible from Arbour Lane and also from the wider road network, particularly from the south and would appear to link the West Town and Kingsleane nodes.

It is not considered that the scheme layout and proposal is particularly sympathetic to the 1992 development. The layout turns its back on Arbour Lane and fronts onto the cul de sac which is contrary to the character of this part of the conservation area and its traditional pattern of development.

Overall it is not considered that the scheme preserves or enhances the conservation area. The traditional development patterns and most particularly the spaces between developed areas would not be respected by the proposal and therefore cannot be supported in terms of the impact on the built heritage environment.'

4.10 The Archaeology Manager raises no objections.

5. Representations

5.1 Kingsland Parish Council has responded to the application indicating:

'Kingsland Parish Council supports the planning application subject to: i) satisfactory drainage arrangements being put in place for the site; ii) the use of alternative measures for the disposal of foul water such as a willow bed system on the retained land to the west of the development site; iii) the houses conform to code 4 building standards; iv) there is no further development of the land to the west of the development site.'

5.2 Three letters in support of the application have been received from P. Bowden, Mill Bungalow, Cholstrey, Leominster, Ms S. Althorp, 400 Buckfield Road, Leominster and Mr. A. Bowden via email. The letters state support for the application and especially in relationship to the provision of affordable housing on site.

5.3 Two letters of objection have been received from Roger Lovelace, Pool Cottage, Norton Canon and Mr. & Mrs. R. Sharp-Smith, Kingsland House, Kingsland.

The objections can be summarised as follows:

- Site is located in a Conservation Area.
- The site forms part of a field that was until recently a species rich wildflower meadow, a special wildlife site that appears to have been destroyed.
- The application site is not considered to be adjacent to the settlement boundary of the village of Kingsland.
- Not enough sufficient need for the development in Kingsland.
- It is not appropriate or desirable to position more affordable units next to those that are already present at Kingsleane, as policy favours "pepper potting" throughout an area and in smaller numbers. Open market housing does not constitute an "exceptional need". Even when the forthcoming Core Strategy is in place Kingsland's contribution to the County's housing shortfall could arguably already be being largely met by the present granted planning permissions. In addition since the 2008 and 2009 unsuccessful planning

applications on this same site, other houses have been built, in the interim, within the village including a number of individual properties and 20 no. units at The Showers Farm.

- The village Primary School is at full capacity and is always oversubscribed for places.
- Local employment prospects are unfavourable.
- Local public transport is poor at best.
- The survey recently conducted for the Kingsland Parish Plan has identified that the majority of residents favour new housing units to be built on brownfield and infill sites and within the village boundary. In addition the results of the Housing Needs Survey have not yet been analysed.
- The proposed development fails to preserve or enhance the character and appearance of the conservation area of the village, which was established to preserve the historic environment of this area.
- The expansion of the Kingsleane group would detract from the essential character of the area. It would significantly reduce the separation between West Town and Kingsleane and therefore be counter to the character of the area. It would be a form of ribbon development in a part of the area where it is important to retain the open fields as the local setting to the village.
- The proposed development would link Kingsleane with the fire station and significantly increase the overall scale and impact of the built form.
- The scheme, is of an unimaginative design, and is much larger than the former proposals.
- The proposed Kingsland Fire Station training block and associated buildings which would have significantly altered the appearance of the conservation area has been shelved and will now not be built. Consequently there is still a characterful conservation area worth protecting. In their proposal the applicant attempts to use the Fire Station development to mitigate the effect of and therefore to support their application.
- The proposed development by virtue of its location and prominent position would be harmful to the landscape quality of the area.
- The site is designated as a Site of Special Wildlife and is a site of special interest for nature conservation. It is recognised as an unimproved hay meadow and despite the loss of the original nature of the hay meadow, it still forms part of the Green Wildlife Corridor that connects sites within the village. This corridor would disappear if it were to be developed for housing. The wildflower meadow could also be re-established.
- The proposal would result in unacceptable overloading of the waste water system in this area of Kingsland. Welsh Water have been categorical in their assessment that no further waste water or surface runoff can be introduced into the current system.
- Winter flooding from the drains, including foul sewage, has historically been and still is, a regular occurrence on this road. This results in flooding on the corner and the filling of the adjacent ditch. During this winter particularly, the water has flowed across our land and entered the Lugg River drainage system via the stream which connects with the Pinsley Brook.

5.4 Herefordshire Campaign to Protect Rural England has responded to the application indicating:

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

'In 2009 a similar application was refused on the grounds that the field was a Special (Local) Wildlife Site NC4 and NC6. and listed in the UDP as S0 46/12.

Until a few weeks ago the same objection could have been made. However the owner/applicant has, without a Screening Test, or an EIA, ploughed the unimproved hay meadow thus removing the indigenous species. The conclusion must be that the destruction of the site was deliberate in order to circumvent an objection to the planning application. Such an act appears to be flagrantly manipulative and displaying no regard to the intrinsic value of a Wildlife Site that has been in existence for many years. Furthermore the ploughing has left no headlands on any of the 4 sides.

The field with its hedgerows appears on the Tithe Map.

The NPPF , section 11, para 109 recommends protection of such sites.

The applicant states that not all the hedgerows are in good condition. As someone who has recently surveyed many hedges I have a different opinion. The sole species poor boundary is the western one adjacent to the applicant's house.

There are further problems with the application. The design of the houses pays scant regard to the increasing needs for low carbon footprints. No solar panels or pv tiles are used, despite the site being open.

The statement that soakaways and rain water butts will deal with water run-off is naive. 12 dwellings plus associated hard surface approaches will increase run-off at a spot where there is a history of inadequate drainage. No drainage systems are proposed in detail. No data are provided as to the permeability of the ground, or calculations in the face of predictions in increased rainfall due to climate change.

Run-off from contaminated groundwater and excess sewage will find its way into the Pinsley Brook which feeds into the Lugg. The Lugg already has higher contamination levels than are acceptable.'

5.5 Hereford Nature Trust object to the application on the basis that it would be contrary to the Herefordshire Council Planning Policies.

5.6 The consultation responses can be viewed on the Council's website by using the following link:-
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 The site for the proposed development adjoins an affordable housing development comprising 10 dwellings which itself is adjacent to the recognised development boundary for Kingsland.

6.2 The key issues in relationship to this application are:

- Justification and need for the proposed development.
- Impact on character of the surrounding Conservation Area and Landscape.
- Ecological status of the site.

- Drainage issues.

Justification and need for the proposed development.

- 6.3 The application seeks full planning permission for the erection of 12 dwellings on land outside a main village's settlement boundary (Policy H4 of the UDP). The application, in common with many considered by the Planning Committee recently, is submitted against the backdrop of a published absence of a 5-year housing land supply as required by the National Planning Policy Framework (2012).
- 6.4 In response to the acknowledged deficit the Council introduced an interim protocol in July 2012. This recognised that in order to boost the supply of housing in the manner required it would be necessary to consider the development of sites outside existing settlement boundaries. The protocol introduced a sequential test, with priority given to the release of sites immediately adjoining settlements with town or main village status within the UDP. For proposals of 5 or more, the sites in the first rank in terms of suitability would be those identified as having low or minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).
- 6.5 The position as regards the scale of the housing land supply deficit is evolving. Whilst the latest published position confirms a deficit, the magnitude of deficit reduces if all sites that are identified as suitable, achievable and available are taken into account. This presupposes, however, that these sites will come forward within 5 years and that they will be given planning permission. As such, it remains the case that for the purposes of housing delivery the relevant policies of the UDP can be considered out of date. As such, and in accordance with paragraph 14 of the NPPF the Council should grant permission for *sustainable* housing development unless:-
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*
- 6.6 The Government's position on this locally has also been confirmed by a recent appeal decision for 35 dwellings at Kingstone. The appointed Inspector made it clear that in the context of a housing land supply deficit there can be no legitimate objection to the principle of development outside the UDP defined development boundary; UDP Policy H4 being out of date.
- 6.7 There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between adverse impacts and benefits should be assessed against the policies in the NPPF as a whole. However, in terms of principle, if the development is acceptable in all other respects, officers consider that the conflict with UDP policy H7 is not a reason for refusal that could be sustained on appeal.
- 6.8 As well as consideration of the principle of developing a green-field site the application raises a number of material considerations requiring assessment against saved UDP policies and guidance laid down in the NPPF. Firstly there is the assessment as to whether the development would represent sustainable development. The NPPF refers to the social, environmental and economic dimensions of 'sustainable development', but does not define the term. Paragraph 49 of the NPPF indicates that '*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.*' In this case the site is considered

to represent a sustainable location for development, the village of Kingsland providing a range of services considered necessary to sustain a typical household.

- 6.9 With consideration to the Council's housing development land shortfall and the services provided in Kingsland, (which are within walking distances of the site), and the fact that the application site is located immediately alongside an existing housing development that is adjacent to the settlement boundary, the site is considered sustainable in terms of its location.
- 6.10 Therefore in terms of the principle of the development and sustainability issues the development is considered to be in accordance with the National Planning Policy Framework and Policy S1 of the UDP.

Impact on the character of the surrounding conservation area and landscape.

- 6.11 The site is located within the designated Conservation Area for Kingsland and within close proximity to the setting of three nearby listed buildings, namely Kingsland House, (Grade II*), and Arbour Farm. (Grade II).
- 6.12 The Conservation Manager objects to the development, indicating concerns about impact on the landscape and build character of the surrounding environment, which includes the existing 'Kingsleane' development alongside the eastern side of the site. The Kingsleane development consists of 10 dwellings looking onto a 'village green' type landscape, that was granted planning approval on 4th February 1993. This is considered a unique 'affordable housing' scheme, which has integrated into the surrounding built environment, and as the Conservation Manager commented in the response to the application *'it is a rare scheme which adds distinction to its surroundings without hiding behind hedges'*, the response further stating that it is a sensitive detailed design with skilful concealment of the access and parking arrangements.
- 6.13 The key UDP policies in relationship to Conservation and Landscape issues are Policies HBA4: Setting of listed buildings, HBA6: New development within Conservation Areas, LA2: Landscape character and areas least resilient to change and LA3: Setting of settlements.
- 6.14 Policy HBA4 indicates that development proposals which would adversely affect the setting of listed buildings will not be permitted and that impacts will be judged in terms of scale, massing, location, detailed design and the effects of its uses and operations. It is considered that the development will not have any adverse impact on the setting of any nearby listed buildings, (nearest being Kingsland House and Arbour Farm), and it is noted that the Conservation Manager and English Heritage raise no objections on this issue. Therefore the development is considered to be in accordance with Policy HBA4 of the UDP and the NPPF on this matter.
- 6.15 Policy HBA6 indicates development will not be permitted unless it preserves or enhances its character and appearance. The policy refers to a requirement for a comprehensive design approach in order to address a number of issues such as in relationship to the development, the type and scale of uses proposed, which should complement existing uses and help to preserve and enhance the character and vitality of an area, whilst respecting scale, massing and height of adjoining buildings and surrounding character and where the setting of and views are important to the character and appearance of an area, these should be safeguarded and protected as should topographical features such as trees and hedgerows and landscape features that contribute to the character and appearance of the area.
- 6.16 Policy LA2 states that new developments that would adversely affect either the overall character of the landscape, as defined by the Landscape Character Assessment and the Historic Landscape Characterisation or its key attributes or features, will not be permitted. Proposals should demonstrate that landscape character has influenced their design, scale, nature and site selection. Policy LA3 indicates that development will only be permitted where

it would not have an adverse effect upon the landscape setting of the settlement concerned and that important visual approaches into settlements, views of key buildings, open areas into development, green corridors, ridgelines and surrounding valued open countryside will be particularly protected and, where necessary, enhanced. The policy also states that the creation of open space, green wedges, and tree lines will be promoted where they complement and enhance landscape character and townscape. Whilst the concerns as raised by the Conservation Manager in relationship to UDP policies are recognised, it is acknowledged that the development proposes retention of the native historic hedgerows that were a key positive contributor to the overall character of the area when the Conservation Area was considered.

- 6.17 The Kingsland Conservation Area was designated in 1975 and its critique refers to Kingsland being a linear village and that a considerable proportion of the village is made up of more recent development and that the actual street scenes in Kingsland are vary varied, often depending on how much the trees and hedgelines have been removed when new development has been initiated. The report puts a strong emphasis on the varied character of the settlement and also refers to the nature of trees and hedgerows that give the settlement a strong character and disappointingly notes that in some locations native hedgerows have been removed in order to enable housing development. The Landscape Character Assessment clarifies Kingsland as being an area of 'Principle Settled Farmlands' to which its key characteristics are hedgerows used for field boundaries in an area notably domestic in character.
- 6.18 The application site is seperated from the adjacent public highway by a native hedgerow and the development does not propose removal of any native boundary hedgerows, which were and in some aspects are still a strong character feature of the immediate area and will help integrate the development into the landscape when viewing the site from the boundary of the Conservation Area nearest to the application site. The built up areas of the main section of the village and the 'West Town area' located mainly alongside the A4110 public highway will retain their separate identity, as farmland will continue to separate the two built up areas. It can therefore be argued that the development represents a suitable small scale development, as a natural progression of the village's built environment, in order to provide sustainable housing development which will help towards the Council's available house building land supply. Whilst it is not similar in scale to the existing Kingsleane development, this 'affordable' housing development located on the corner of the adjacent C1036 highway will retain its unique character, as the proposed development will not compete with this scheme, whilst retaining the hedgerow character around the site that was evidently a strong landscape character of the area when the Conservation Area was firstly considered for Conservation Area designation.
- 6.19 With consideration to the location and its Conservation designation, on balance the development is considered to be in accordance with the aims of the NPPF and although it proposes a new build development on a site alongside an existing residential development which does have a special identity of its own, the development subject to this application does retain the boundary hedgerows which were clearly a defining character of the area when it was considered for Conservation status. In the wider context of the village it is considered on balance the development will integrate satisfactorily and therefore preserve the Conservation Area. Consideration also has to be given to the Council's lack of five year land supply and the requirement for a presumption in favour of sustainable development must be given significant weight in the planning balance.

Ecological status of the site.

- 6.20 Objections have been received from Herefordshire Nature Trust and Herefordshire Campaign to Protect Rural England, (HCPRE), as well as comments made in the two letters of objection,

received from members of the public, with regards to the ecological interests of the site, which is a designated special wildlife site.

- 6.21 The UDP identifies the site as a special area for conservation, as a special wildlife site, (ref: SWS 46/012). In accordance with planning approval reference 92 418 dated 4th February 1993, the applicants agreed to a Section 39 agreement under the Wildlife and Countryside Act 1981 and the Town and Country Planning Act 1990 in consideration of the affordable housing. The Section 39 agreement was to ensure that the adjoining meadow was managed for a period of 10 years in order to retain the variety of flora on the land to the east of Harbour House, (including the site subject to this application). The agreement allowed the production of hay on site and stated that the applicants must control notifiable weeds in accordance with good agricultural practice and that surrounding hedgerows were to be retained and managed. This agreement expired on 3rd February 2003 as confirmed in a letter from the Council to the applicant dated 2nd March 2005.
- 6.22 The Planning Ecologist has responded to the application indicating that the site has undergone some drastic changes as a result of ploughing and re-seeding and that it would not be appropriate for him to object to the application on ecological grounds, as the inherent biodiversity interest has been lost. Natural England in a letter dated April 3 2014 have not indicated any objections to the development in relationship to the biodiversity interests of the site.
- 6.23 With consideration to the circumstantial evidence, it is considered that a refusal based on ecological issues could not be sustained in the event of an appeal.

Drainage issues.

- 6.24 Kingsland Parish Council in response to the application indicated support subject to satisfactory drainage arrangements being put in place for the site and the use of alternative arrangements for the disposal of foul water. One of the letters of objection received as well as HCPRE also raised concerns about flooding and drainage issues.
- 6.25 Welsh Water have responded to the application with no objections recommending conditions be attached to any approval notice issued with regards to foul and surface water drainage from the site. The Land Drainage Manager also raises no objections subject to provision of detailed surface water management design, infiltration test results, groundwater level data, drainage calculations, demonstrating that the soakaways are located more than 5 metres from building foundations and consideration of adoption maintenance and siltation control.
- 6.26 It is considered that drainage issues can be adequately addressed via the attachment of suitably worded conditions as recommended to any approval notice issued.

Other Matters

- 6.27 Layout of affordable housing on site next to the existing affordable housing has been raised as a matter of concern in a letter of objection received from members of the public. The application proposes 4 affordable houses as part of the development. This is considered acceptable and the Council's Housing Manager raises no objections. Whilst it is acknowledged that the affordable housing on site is located next to the existing affordable housing development, overall this is considered acceptable as the rest of the development is for unencumbered housing which overall will help to integrate the different housing tenures in this part of the village.
- 6.28 Concerns have also been raised about the capacity of Kingsland Primary School and its ability to accommodate more children as a result of the development. The Planning Obligations Manager raises no objections in respect of the Draft Heads of Terms submitted in support of

the application which makes a contribution towards local infrastructure requirements which includes Kingsland primary school.

- 6.29 Issues have also been raised about public transport issues. It is noted that the Transportation Manager raises no objections.
- 6.30 Design has also been raised as an issue in that the development is of unimaginative design and is much larger than the former proposals. With consideration to the surrounding built environment, the overall design and layout, and with consideration to the issues as discussed earlier in this report, on balance the design and layout is considered acceptable.
- 6.31 Reference is made to Kingsland Fire Station which is located on the opposite side of the C1036 road alongside the southern side of the site and a previous planning approval for fireman training facilities. This approval is still valid and was subject to a Judicial Challenge which was dismissed by the High Court.
- 6.32 Concerns have been raised about the forthcoming Kingsland Neighbourhood Plan and Kingsland's contribution towards the County's housing supply and that most residents favour brown field development. Refusal of planning permission on these issues and grounds of prematurity cannot be justified where a draft local plan has yet to be submitted for examination. It is Officer opinion that the emerging core strategy is still at a relatively early stage of preparation and as such prematurity cannot be argued as a reason to refuse this application.
- 6.33 The comments as made by Kingsland Parish Council with regards to land to the west of the site are noted and Members are reminded that each application has to be considered on its own merits. Dwelling construction standards will have to be in accordance with Building Regulation standards and it has been established that development of the site is sustainable.
- 6.34 A Draft Heads of Terms drawn up in accordance with the Town and Country Planning Act 1990 on planning obligations has been submitted in support of the application to which no objections are raised. They provide for a raft of contributions amounting to £103,612, details of which are appended to this report.

Conclusions

- 6.35 Whilst it is acknowledged that the planning history of the site is one of 'refusal' of development, the issues as raised by the Conservation Manager have been fully considered and the retention of the native hedgerow together with utilising the existing access into Kingsleane results in the development overall preserving the Conservation Area. In addition the Council's lack of a five year house land supply must be given significant weight within the planning balance. Accordingly the appraisal demonstrates that development on site is now considered acceptable with reference to the Conservation Area and its original designation, landscape impact and the fact that the application does not propose removal of any native hedgerows which were clearly an important historic feature of the area when the Kingsland Conservation Area was adopted.
- 6.36 It has been demonstrated that the ecological issues with regards to the site designation cannot be sustained as a reason for refusal, Drainage issues are considered to be addressed satisfactory with the attachment of appropriate conditions.
- 6.37 Other matters as raised by members of the public have been considered and raise no issues of concern in order to warrant a recommendation for refusal. Finally the Parish Council comments whilst not objecting to the application have been noted and considered.

6.38 Therefore the planning application is considered acceptable and is recommended for approval.

RECOMMENDATION

That subject to the applicants signing a Section 106 agreement in accordance with the Town and Country Planning Act 1990 in accordance with the detail as contained in the attached heads of terms to this report that planning permission be granted subject to the following conditions:

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C01 Samples of external materials**
4. **D04 Details of window sections, eaves, verges and barge boards**
5. **D05 Details of external joinery finishes**
6. **F14 Removal of permitted development rights**
7. **G02 Retention of trees and hedgerows**
8. **G09 Details of Boundary treatments**
9. **G10 Landscaping scheme**
10. **G11 Landscaping scheme - implementation**
11. **Prior to any development on site details will be submitted to and approved in writing by the Local Planning Authority with regards to a detailed surface water management design, which will include detail with regards to infiltration tests results, groundwater level data, drainage calculations and soakaways located more than 5 metres in distance from building foundations.**

Reason: In order to ensure protection from flooding with adequate drainage and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

12. **L01 Foul/surface water drainage**
13. **L02 No surface water to connect to public system**
14. **L03 No drainage run-off to public system**
15. **H13 Access, turning area and parking**

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in**

favour of sustainable development, as set out within the National Planning Policy Framework.

2. HN01 Mud on highway
3. HN04 Private apparatus within highway
4. HN05 Works within the highway
5. HN07 Section 278 Agreement
6. HN17 Design of street lighting for Section 278
7. HN10 No drainage to discharge to highway
8. **Dwr Cymru Welsh Water Advisory Notes**

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Development Services on 0800 917 2652.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government have introduced new legislation that will make it mandatory for all developers who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA) 1991 will need to be completed in advance of any authorisation to communicate with the public sewerage system under Section 106 WIA 1991 being granted by DCWW.

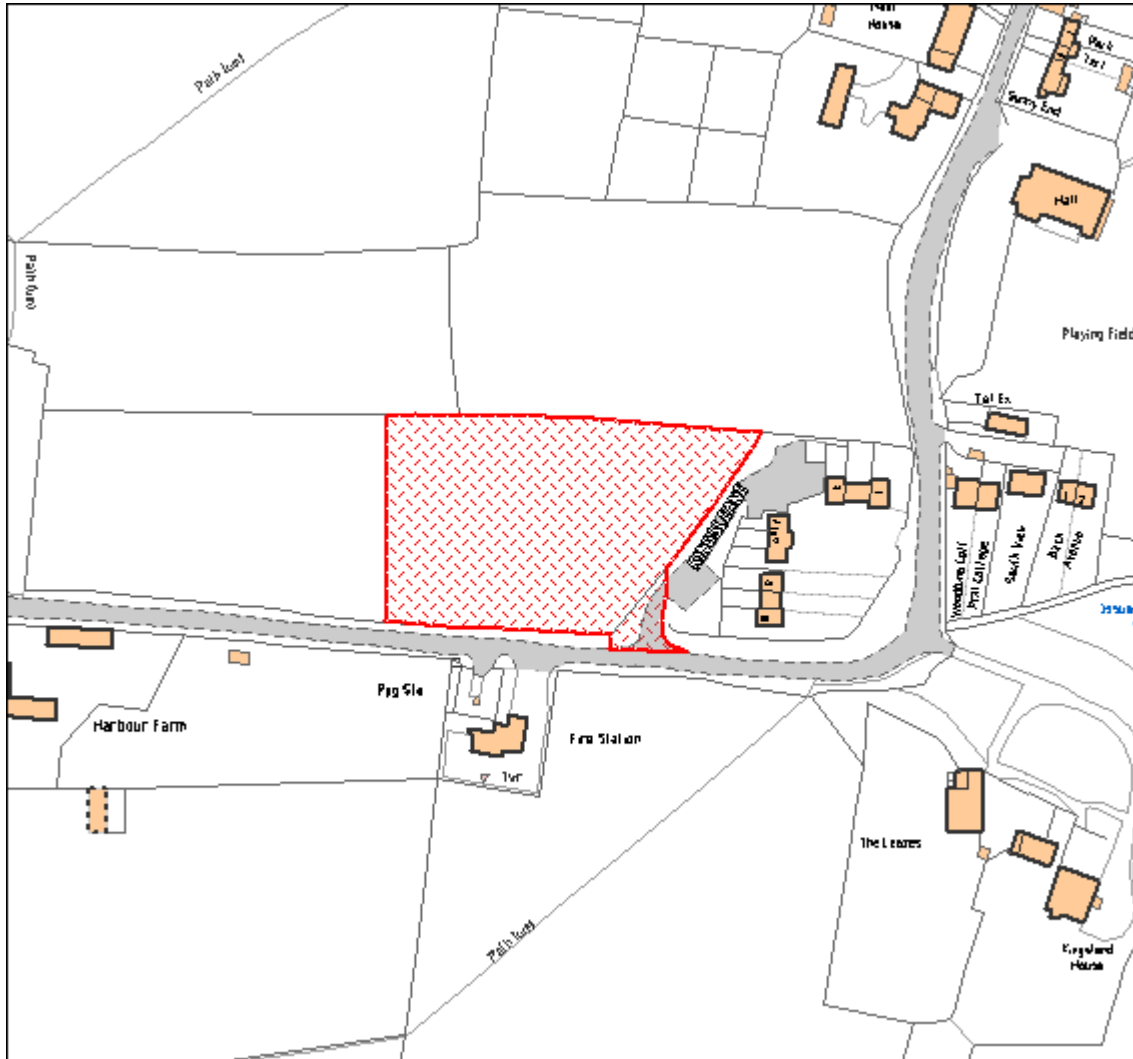
Welsh Government introduced the Welsh Ministers Standards on the 1 October 2012 and we would welcome your support in informing applicants who wish to communicate with the public sewerage system to engage with us at the earliest opportunity. Further information on the Welsh Ministers Standards is available for viewing on our Developer Services Section of our website – www.dwrcymru.com. Further information on the Welsh Ministers Standards can be found on the Welsh Government website – www.wales.gov.uk.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 140534/F

SITE ADDRESS : LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9SP

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

DRAFT HEADS OF TERMS

PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application: P140534/F

Proposed erection of 12 dwellings comprising 4 x 3 bed open market, 4 x 4 bed open market, 2 x 2 bed affordable and 2 x 3 bed affordable on land adjoining Kingsleane, Kingsland, Leominster, HR6 9SE

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£55,420.00** (index linked) for enhanced educational infrastructure at Coningsby Early Years, Kingsland Primary School, Wigmore High School, St Mary's Roman Catholic School, Teme Valley Youth and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st open market dwellinghouse, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£24,080.00** (index linked) for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate. The sustainable transport infrastructure will include improvements to the public right of way network within the vicinity of the development, improved crossing facilities between the application site and village facilities and improved bus infrastructure within the vicinity of the development .
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£15,436.00** (index linked) for off-site play facilities. The contribution will be used in accordance with the Play Facilities Study and Investment Plan 2012. The Millennium Green which is owned and maintained by the Parish Council offers a small infants play area which although has recently been improved requires more investment for older children to make it a larger play facility. The sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£5,960.00** (index linked) This is subject to completing an Indoor Facility Investment Plan currently being undertaken externally to develop a strategy for the Indoor Facilities using future proofing (2031) methodology to identify deficiencies in existing provision both quantity and quality above and beyond investment required to bring facilities up to a standard which is fit for purpose. This work should identify where additional investment is required in meeting future needs. Alternatively in the more rural areas such as Kingsland, if the Parish Council has or is in the process of identifying investment required for village hall/sports halls to improve quality/quantity to meet local community needs, for instance, via their Neighbourhood Planning process, this should also be considered as a local priority. The sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£1756.00** (index linked) for enhanced Library facilities in Leominster. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£960.00** (index linked). The contribution will provide for waste reduction and recycling in Leominster. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council that 35% of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
8. Of those Affordable Housing units, at least 2 (two) shall be made available for social rent with the remaining 2 (two) being available for intermediate tenure occupation.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

10. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-

10.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and

10.2 satisfy the requirements of paragraph 12 of this schedule

11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-

11.1 a local connection with the parish of Kingsland;

11.2 in the event there being no person having a local connection to the parish of Kingsland a person with a connection to Aymstrey, Shobdon, Eyeton, Yarpole, Eardisland and Monkland & Stretford;

11.3 in the event there being no person with a local connection to any of the above parish or wards any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 11.1 and 11.2 above

12. For the purposes of sub-paragraph 11.1 and 11.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

12.1 is or in the past was normally resident there; or

12.2 is employed there; or

12.3 has a family association there; or

12.4 a proven need to give support to or receive support from family members; or

12.5 because of special circumstances

13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
17. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman

Planning Obligations Manager